

SENATE BILL 263

By Johnson

AN ACT to amend Tennessee Code Annotated, Title 50,
Chapter 6, relative to workers' compensation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-6-118(d), is amended by deleting the subsection and substituting:

(d) If an employee receives a settlement, judgment, or decree under this chapter that includes the payment of medical expenses, and the employer or workers' compensation carrier wrongfully fails to reimburse the employee for any medical expenses actually paid by the employee within sixty (60) days of the settlement, judgment, or decree, or wrongfully fails to provide reasonable and necessary medical expenses and treatment, including failure to reimburse for reasonable and necessary medical expenses, then after receiving reasonable notice of the obligation to provide the medical treatment, the employer or workers' compensation carrier is liable, in the court's discretion, to pay the employee a sum not exceeding twenty-five percent (25%) of the expenses, in addition to the amount due for medical expenses paid. The court may exercise this discretion only if the court finds that the refusal to pay the claim inflicted additional expense, loss, or injury upon the employee. For purposes of this subsection (d), "wrongfully" means erroneously, incorrectly, or in a manner otherwise inconsistent with the law or facts.

SECTION 2. Tennessee Code Annotated, Section 50-6-226(a)(1), is amended by deleting the subdivision and substituting:

(1) The reasonableness of attorney's fees for services to employees under this

chapter is subject to the approval of the workers' compensation judge before whom the matter is pending; provided, that attorney's fees shall not exceed twenty percent (20%) of the amount of the recovery or award to the injured worker, or in cases governed by § 50-6-207(4), twenty percent (20%) of the first four hundred fifty (450) weeks of the award. All attorney's fees for attorneys representing employers are subject to review for reasonableness of the fee and are subject to approval by a workers' compensation judge when the fee exceeds ten thousand dollars (\$10,000).

SECTION 3. Tennessee Code Annotated, Section 50-6-235(c)(1), is amended by deleting the subdivision and substituting:

(1) Any party may introduce direct testimony from a physician through a written medical report on a form established by the administrator. The administrator shall establish by rule the form for the report. All parties have the right to take the physician's deposition on cross examination concerning the contents of the medical report. A written medical report sought to be introduced as evidence must be signed by the physician making the report bearing an original or electronic signature. A reproduced medical report that was originally signed is admissible as evidence to the same extent as the original report or a report bearing an electronic signature unless a genuine question is raised as to the authenticity of the original, which question must be resolved by a workers' compensation judge. A written medical report sought to be introduced into evidence must include within the body of the report or as an attachment a statement of qualifications of the person making the report. The administrator shall, by rule, fix the fee to be charged by the physician for the preparation and filing of the report and fix penalties for a failure to file the report after a timely request for it by an interested party.

SECTION 4. Tennessee Code Annotated, Section 50-6-236(b)(4), is amended by deleting the subdivision and substituting:

(4) If the parties reach a full and final settlement, then either the mediator, or one (1) party's legal representative upon agreement of the parties, shall reduce the settlement to writing and each party, or their representative, shall sign. A settlement reached during alternative dispute resolution proceedings is not effective until it has been approved by a workers' compensation judge in accordance with the procedure provided in this chapter.

SECTION 5. Tennessee Code Annotated, Section 50-6-801(d), is amended by deleting the first sentence in the subsection and substituting:

The bureau may use any revenues remaining in the uninsured employers fund that are not used for the purposes provided in subsection (c) to provide temporary disability benefits, medical benefits, or death benefits to an eligible employee who suffered an injury or death arising primarily within the course and scope of the employee's employment with an employer who failed to secure the payment of compensation pursuant to this chapter at the time the eligible employee suffered the injury or death.

SECTION 6. Tennessee Code Annotated, Section 50-6-802(a), is amended by deleting the first sentence in the subsection and substituting:

An eligible employee may request that the bureau provide the employee temporary disability benefits, medical benefits, or death benefits, pursuant to § 50-6-801(d), by submitting a request for benefits from the uninsured employers fund to the bureau no more than sixty (60) days after conclusion of the claim, including all appeals.

SECTION 7. Tennessee Code Annotated, Section 50-6-802(b), is amended by deleting the first sentence in the subsection and substituting:

For claims with a date of injury that is on or after July 1, 2015, the bureau may, upon receipt of a request for benefits pursuant to subsection (a) from an eligible

employee, provide the employee temporary disability benefits, medical benefits, or death benefits.

SECTION 8. Tennessee Code Annotated, Section 50-6-802(c), is amended by deleting the subsection and substituting:

(c) If the bureau pays workers' compensation benefits to the injured employee, then the bureau shall pay the workers' compensation benefits to the employee from the uninsured employers fund and the amount paid to, or on behalf of, an injured employee, pursuant to this part, shall not exceed sixty thousand dollars (\$60,000). Of the sixty thousand dollars (\$60,000), the bureau shall pay no more than twenty thousand dollars (\$20,000) for medical benefits, no more than twenty thousand dollars (\$20,000) for temporary disability benefits, and no more than twenty thousand dollars (\$20,000) for death benefits. However, if no more than twenty thousand dollars (\$20,000) has been paid to the employee for temporary disability or medical benefits and the employee has secured a judgment for temporary disability or medical benefits in an amount greater than twenty thousand dollars (\$20,000), then the administrator may pay to the employee the remaining funds not exceeding a total of forty thousand dollars (\$40,000) for both temporary disability and medical benefits combined, exclusive of death benefits, if applicable. The administrator shall not pay benefits pursuant to this part to, or on behalf of, an employee for more than one (1) workplace injury.

SECTION 9. Tennessee Code Annotated, Section 50-6-204(i), is amended by adding the following as a new subdivision:

() In order to improve the quality of medical care delivered to injured workers and improve the accuracy of permanent impairment ratings, the administrator is authorized to establish by rule a voluntary physician education program that provides an additional reimbursement under the comprehensive medical fee schedule adopted

pursuant to this subsection (i). The additional reimbursement must be available to physicians and chiropractors. The administrator shall determine in rule the education and quality improvement requirements to receive the additional reimbursement.

SECTION 10. For purposes of promulgating rules, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect July 1, 2023, the public welfare requiring it.